

REMARKS

Introduction

In response to the final Office Action dated November 26, 2007, Applicants have amended claims 3 and 4. Support for amended claims 3 and 4 is found in, for example, Figs. 13 and 14 and their corresponding description in the originally filed specification. Care has been taken to avoid the introduction of new matter. Claims 1 and 2 are withdrawn. In view of the foregoing amendments and the following remarks, Applicants respectfully submit that all pending claims 3-6 are in condition for allowance.

Claim Rejection Under 35 U.S.C. § 102

Claims 3-6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,258,480 (hereinafter Moriwaki) as evidenced by U.S. Patent No. 3,577,753. The Office Action asserts that Moriwaki teaches press forming such that a distance between an outer circumferential surface of the large thickness portion and the central axis is equal to a distance between an outer circumferential surface of the small thickness portion and the central axis. The Office Action relies on Shah to provide evidence that the drawing and ironing processes involves inserting a punch into a die to form the cup, as taught by Moriwaki.

According to the claimed subject matter per amended claim 3, a distance between the outer circumferential surface of the large thickness portion and the central axis is greater than a distance between the outer circumferential surface of the small thickness portion and the central axis during the step of modifying a thickness. In one embodiment of the present application, Fig. 14 shows the distance between the outer circumferential surface of the large thickness portion and the central axis is equal to the distance between the outer circumferential surface of the

small thickness portion and the central axis, and the distance between the inner circumferential surface of the large thickness portion and the central axis is smaller than the distance between the inner circumferential surface of the small thickness portion and the central axis when the outer circumferential surface of the small thickness is displaced by press working.

Turning to the prior art, Moriwaki shows in Figs. 1, 4(a), and 4(b), an anode can having a distance between the outer circumferential surface of the large thickness portion and the central axis that is equal to a distance between the outer circumferential surface of the small thickness portion and the central axis, and a distance between the inner circumferential surface of the large thickness portion and the central axis that is smaller than the distance between the inner circumferential surface of the small thickness portion and the central axis using the drawing and ironing technique. However, Moriwaki fails to disclose or suggest, at a minimum, the step of modifying the large and small thickness portions where a distance between the outer circumferential surface of the large thickness portion and the central axis is greater than a distance between the outer circumferential surface of the small thickness portion and the central axis, and a distance between the inner circumferential surface of the large thickness portion and the central axis is equal to a distance between the inner circumferential surface of the small thickness portion and the central axis, as required by amended claim 3. Further, Moriwaki is *silent* regarding **displacing** the outer circumferential surface of the large thickness portion by press working such that the distance between the outer circumferential surface of the large thickness portion and the central axis is equal to the distance between the outer circumferential surface of the small thickness portion and the central axis, and the distance between the inner circumferential surface of the large thickness portion and the central axis is smaller than the distance between the inner circumferential surface of the small thickness portion and the central

axis, as required in amended claim 3. Moriwaki fails to disclose or suggest, "...modifying a thickness by subjecting said sidewall to press working so as to form a large thickness portion located at an end portion of said sidewall and having a relatively large thickness and a small thickness portion being a portion other than said large thickness portion and having a thickness relatively smaller than that of said large thickness portion in said sidewall, the large thickness portion has an outer circumferential surface and an inner circumferential surface, the small thickness portion has an outer circumferential surface and an inner circumferential surface, a distance between the outer circumferential surface of the large thickness portion and the central axis is greater than a distance between the outer circumferential surface of the small thickness portion and the central axis, and a distance between the inner circumferential surface of the large thickness portion and the central axis is equal to a distance between the inner circumferential surface of the small thickness portion and the central axis; and **displacing the outer circumferential surface of the large thickness portion**," as recited in amended claim 3.

Shah discusses the conventional technique of drawing and ironing a metal container and its drawbacks including shearing and fracturing the metal. The teachings of Shah would not apply to Moriwaki because Shah is related to drawing and ironing containers from blanks using a dry film lubricant coating. Thus, Shah does not cure the deficiencies of Moriwaki.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that "inherency may not be established by probabilities or possibilities," *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that Moriwaki does not anticipate amended claim 3,

nor any claim dependent thereon. The dependent claims are allowable for at least the same reasons as claim 3.

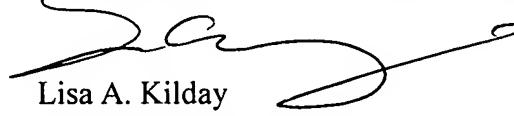
Conclusion

In view of the above amendments and remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Lisa A. Kilday
Registration No. 56,210

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 SAB/LAK
Facsimile: 202.756.8087
Date: February 26, 2008

**Please recognize our Customer No. 20277
as our correspondence address.**